

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

**IN RE: AQUEOUS FILM-  
FORMING FOAMS PRODUCTS  
LIABILITY LITIGATION**

MDL No. 2:18-mn-2873-RMG

**This Document Relates to All Actions**

**Mediation Order**

This matter comes before the Court at the request of Tyco Fire Products LP (“Tyco”) to assure compliance with this District’s local rules regarding mediation. On October 26, 2022, the Court appointed the Hon. Layn Phillips (ret.) to serve as a Court-appointed mediator to assist the parties. CMO No. 2B (Oct. 26, 2022) [Dkt. 2658]. On May 4, 2023, this Court ordered Tyco’s insurance carriers to attend a mediation on May 15, 2023 between Tyco and Plaintiffs’ Co-Lead Counsel. *See* Mediation Order (May 4, 2023) [Dkt. 3075]. The Mediator has scheduled a follow-on mediation session at 9:00 am on June 15, 2023 between Tyco and Plaintiffs’ Co-Lead Counsel at the offices of Williams & Connolly LLP, 680 Maine Avenue SW, Washington, DC 20024.

Local Rule 16.08 (D.S.C.) provides that among the persons required to attend a scheduled mediation are representatives of insurance carriers of any party against whom a claim has been made. The insurance company representatives required to be in attendance must have “full authority to settle the claim” and this provision is not satisfied by the attendance of a carrier’s outside counsel. “Full authority to settle the claim” means that the insurance company representatives in attendance at the mediation shall have the independent authority to settle the claim without the necessity of obtaining additional settlement authority from others not in attendance at the mediation. This provision applies to all insurance carriers in which a party to

this action has asserted a right to coverage and this obligation is not excused by the carrier disputing or denying coverage.

Pursuant to Local Rules 16.08 and 16.09 (D.S.C.), the Court hereby **ORDERS** and **DIRECTS** that the following insurance carriers shall send at least one representative to the June 15, 2023 mediation session who is not the carrier's outside counsel and who has full authority to settle any and all relevant claims: (1) AIU Insurance Company, American Home Assurance Company, Insurance Company of the State of Pennsylvania, National Union Fire Insurance Company of Pittsburgh, Pa., and New Hampshire Insurance Company (collectively also referred to at times as "AIG"), (2) American Guarantee and Liability Insurance Company and Zurich American Insurance Company, formerly known as Zurich Insurance Company (collectively also referred to at times as "Zurich"), (3) Agricultural Insurance Co., now known as Great American Assurance Co., (4) North American Specialty Insurance Company, now known as Swiss Re Corporate Solutions America Insurance Corporation, (5) Starr Indemnity and Liability Company, and (6) XL Insurance America, Inc.

**AND IT IS SO ORDERED.**

s/Richard Mark Gergel  
Richard Mark Gergel  
United States District Judge

June 1, 2023  
Charleston, South Carolina